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6 Attorneys for Defendants  
7 CITY OF MENLO PARK and DAVE BERTINI

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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO

11 MICHAEL ZELENY, an individual

12 Plaintiff,

13 vs.

14 EDMUND G. BROWN, JR., an individual, in  
15 his official capacity, et al.

16 Defendants.

Case No. 17-cv-07357-RS (TSH)

Assigned to: Hon. Richard Seeborg

**RESPONSE OF DEFENDANTS CITY OF  
MENLO PARK AND DAVE BERTINI TO  
PLAINTIFF'S REQUEST FOR LEAVE TO  
FILE SUPPLEMENTAL BRIEF TO  
ADDRESS NEW AUTHORITY**

Action Filed: December 28, 2017

Trial Date: Not Set

Defendants City of Menlo Park and Dave Bertini have no objection to the request for leave to submit supplemental briefing regarding the recent decision in *Young v. State of Hawaii et al.*, Case No. 12-17808, 2021 U.S. App. LEXIS 8571 (9th Cir., March 24, 2021). In the event the Court grants the request, defendants ask that they be allowed to submit a supplemental brief as well.

Defendants do not believe that the decision in *U.S. v. Rundo*, No. 19-50189, 2021 WL 821938 (9th Cir. March 4, 2021) is particularly applicable to the pending motions or that it merits briefing at this time.

1 Plaintiff's request for leave to submit supplemental briefing states that plaintiff had  
2 "attempted to obtain a stipulation allowing the parties to submit simultaneous supplemental briefs,  
3 but was unable to secure agreement, requiring Plaintiff to seek leave of Court." Plaintiff proposed  
4 a stipulation that stated the parties wished to obtain permission to submit "supplemental briefs on  
5 the *Young* decision and other recent decisions." Defendants declined to stipulate since it was not  
6 clear from such language what "other recent decisions," aside from *Young* and *Rundo*, plaintiff is  
7 seeking leave to brief, given the fact that all briefing on the motions for summary judgment and  
8 summary adjudication has been completed.

9 DATED: March 30, 2021

10 HOWARD ROME MARTIN & RIDLEY LLP

11 By: /s/ Robert J. Gundert

12 Todd H. Master  
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14 Attorneys for Defendants  
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